



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA

(PO. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)

(916) 445-4588

WILLIAM M. BENNETT
First District
CONWAY H. COLE
Second District, Los Angeles
ERNEST J. DORNENBURG
Third District, San Diego
PAUL CARPENTIER
Fourth District, Los Angeles
GRAY DALL
Fifth District, Sacramento
DINOY HAYES
Executive Secretary

July 8, 1988

Mr. Hugh G. Marchant
1475 Second Street
San Rafael, CA 94901

Dear Mr. Marchant:

This will confirm our telephone conversation of Thursday,
July 7, 1988, regarding your letter of June 24.

After reviewing your letter and the exhibits included with it, I regret that I am unable to agree with your conclusion that the Marin County Assessor is authorized by Revenue and Taxation Code section 405 to divide and prorate the taxes arising from the escape assessment for 1986-87 on the real property which was owned by your wife on March 1 of 1986 but was sold the following August 1. I find nothing in section 405 or the other provisions of the Revenue and Taxation Code (excluding the supplemental assessment provisions which are not applicable here) which authorize the county to prorate the property taxes for a given year between a buyer and a seller of the property. See Revenue and Taxation Code section 75.54(c) (copy enclosed) for an example of express legislative authority to apportion taxes. Unfortunately, this only applies to supplemental assessments.

The proration of property taxes is typically a matter of private contract between the buyer and seller. The obligation of the buyer to assume his or her share of the taxes for the current year arises from that private agreement and not from the authority or requirements of the Revenue and Taxation Code. It appears, therefore, that you do have a remedy but it lies in the direction of seeking reimbursement from the buyer under your sales contract rather than utilizing the tax system as a means of sharing the tax liability.

Very truly yours,

Richard H. Ochsner
Assistant Chief Counsel

189

Escape Assessment